

SCOTTSDALE PRIVILEGE TAX

CONSTRUCTION CONTRACTORS, OWNER BUILDERS AND SPECULATIVE BUILDERS



This publication is for general information about the Transaction Privilege (Sales) Tax on contracting activities. It contains excerpts from the Scottsdale Revised City Code, Appendix C and related regulations. In case of inconsistency or omission in this publication, the language of the Tax Code will prevail.



March 2003

YOU OWE CONSTRUCTION CONTRACTING TAX IF:

You are in the construction business in the City of Scottsdale. A contractor is considered to be in business in Scottsdale when the construction job is in Scottsdale. Contractors report the income from each job to the Arizona city in which the job is located, not to the city where the contractor is based.

TAX RATE ON CONSTRUCTION CONTRACTING

The Scottsdale tax rate is 1.4% of the taxable income.

WHAT IS CONSTRUCTION CONTRACTING?

Construction contracting includes construction, remodeling, repairs, demolition, etc., to real property. There does not have to be a contract for the work. A construction contractor who provides only labor is subject to the same provisions as one who provides both materials and labor. Remediation Contracting is not subject to the tax.

Examples of taxable contracting activity include:

- Construction or demolition of a building
- Road construction
- Land excavation and landscaping
- Installation of permanently attached equipment or fixtures to real property
- Sales and installation of floor covering
- Home remodeling
- Repairs to a building
- Construction for a government agency (including work for the City of Scottsdale)
- Construction for a church or nonprofit organization

Examples of items that are not considered construction contracting:

- Remediation Contracting
- Landscape maintenance, lawn mowing (exempt service)
- Installation of drapes and miniblinds (retail)
- Plug-in kitchen equipment (retail)
- Tangible personal property included in a construction contract that would otherwise be exempt if purchased by the specified entity. ie: non-profit qualified healthcare providers

ARE SUBCONTRACTORS TAXED?

Income from acting as a subcontractor is exempt from the tax. To qualify for this exemption, the subcontractor must obtain the City Privilege License number of the construction contractor or speculative builder stating that they are liable for the tax. The City has Exemption Certificates available that you may use to document these exemptions. (A sample is provided in the back of this pamphlet.)

Contractors who work for a property owner, not another contractor or speculative builder, will be considered to be the contractor for the job and responsible for the related tax.

ARE OWNER-BUILDERS TAXED?

Owners who are improving real property for themselves may or may not be the party liable for paying the tax on the construction.

A homeowner who is building his own principal residence would not normally be the liable party. Each of the contractors or suppliers who provide materials and/or services would be liable based on their income from the job. However, the owner may be liable for some additional tax if the property is offered for sale or sold prior to occupying the home for at least six (6) months.

Many Owner-Builders become Speculative Builders and are subject to tax based on the sales price of the real property. A Speculative Builder is defined as:

An "Owner-Builder" who sells or contracts to sell, at any time, improved real property consisting of: **(residential)**

- A) custom, model, or inventory homes regardless of the stage of completion of such homes; or
- B) improved residential or commercial lots without a structure, or

An Owner-Builder who sells or contracts to sell improved real property, other than real property specified in (A) and (B) above:
(commercial)

- A) prior to completion or
- B) before expiration of twenty-four (24) months after the improvements of the real property sold are substantially complete.

An "owner-builder" who is building a commercial structure for sale would be liable for tax based on the property's sales price. If the property is not sold within 24 months of the date it was completed, the tax would be due on the 25th month following completion and would be based on the cost of construction.

The City has an Owner-Builder Declaration which should be completed at the time a building permit is issued. This declaration clarifies the owner's intent with respect to Privilege Tax. See sample form in the back of this pamphlet.

GROSS INCOME

Contractors are taxable based on their gross income from the contracting business. Normally this will be either the total amount of the contract or the sales price of the property when it is sold. The income is taxable regardless of whether it includes both labor and materials or just labor.

Sales of improved real property such as subdivision lots are taxable as Speculative Builder Sales.

Contractors may report on a progressive billing basis or on a cash receipt basis. Home builders and speculative builders report the total selling price at the time of close of escrow or transfer of title, whichever occurs first.

The City does not acknowledge artificially contrived transactions or sales which do not reflect the fair market value of the property transferred. Sales to a "Marketing Arm" would be taxed at the final sales price to the actual consumer or the fair market value of the property transferred; whichever is higher.

EXEMPTIONS AVAILABLE FOR ITEMS YOU PURCHASE

There is an exemption from the tax on retail sales for materials which a contractor or speculative builder purchases for incorporation into a building or improvement. This exemption does not apply to:

- Furniture, construction equipment or tools sold or leased to a contractor or speculative builder.
- Any other tangible personal property which is not incorporated into the actual improvements.
- Materials purchased directly by an owner-builder.

DEDUCTIONS

The following are typical deductions subtracted from gross income to arrive at the taxable income:

- Privilege Tax collected
- 35 percent standard deduction
- Exempt subcontracting
- Out-of-City contracting
- Installation, assembly, repair or maintenance of income-producing capital equipment
- Installation, assembly, repair or maintenance of clean rooms

If you have charged your customer Privilege Tax separately, and it is included in gross income, you may deduct it.

If you have not separately charged your customer Privilege Tax, you may “factor” your Privilege Tax. This means that the total contract price includes Privilege Tax and you can compute the amount of tax and deduct it. Formulas for factoring tax are included in the back of this pamphlet. These factors change based on any changes to the combined state, county and city tax rate. Make sure you use the factor that corresponds to the tax rate in effect for your transaction. Computer spreadsheet templates are also available through our office.

A standard 35% deduction is allowed for all income taxable as contracting. The 35% standard deduction should be computed after the Privilege Tax deduction has been deducted.

Note: The City of Scottsdale does not allow a land deduction.

What is Remediation Contracting?

The following activities are considered remediation contracting and are exempt:

- (1) Excavation, transportation, treatment, and/or disposal of contaminated soil for purposes of site remediation (rather than characterization);
- (2) Installation of groundwater extraction and/or injection wells for purposes of groundwater remediation;
- (3) Installation of pumps and piping into groundwater extraction wells for remediation purposes;
- (4) Installation of vapor extraction wells for the purpose of soil or groundwater remediation;
- (5) Construction of remediation systems, such as groundwater treatment plants, vapor extraction systems, or air injection systems;
- (6) Connection of remediation systems to utilities;
- (7) Abandonment of groundwater or vapor extraction wells;
- (8) Removal/demolition of remediation systems;
- (9) Capping/closure construction activities; and
- (10) Service or handling charges for subcontracted remediation contracting activities.

PRIVILEGE TAX CAN APPLY TO CERTAIN
FORECLOSED PROPERTY

and other acquisitions of real property on which tax has
not been paid

The City of Scottsdale follows the model cities tax code, which was adopted in 1987. One of the provisions of this code is a section that applies to recently improved foreclosed property such as a new commercial or residential property, with or without a structure. The code section 595(c) reads as follows:

- *Any person who purchases, or who acquires by foreclosure, by sale under trust deed or warranty deed in lieu of foreclosure, or by any other method, improved real property or a portion of improved real property for which the Privilege Tax imposed by this Chapter has not been paid shall be responsible for payment of such tax as a speculative builder or owner builder, as provided in Sections 416 and 417.*

Section 416 and 417 relate to the tax imposed on the sale of recently improved real property. Examples would be speculative homes, model homes, commercial buildings and improved lots, where the original owner would have been responsible for the tax imposed under these sections but did not pay the tax in the course of the foreclosure. In this circumstance the party acquiring the foreclosed property could be responsible for the tax if any is due. The tax is triggered and payable upon acquisition, based on the bid price.

Only a very small percentage of foreclosure transactions are impacted by this particular tax since it generally only applies to newly constructed properties on which the appropriate tax was not paid.

CITY OF SCOTTSDALE
Development Services Division (480) 312-2500
Tax Audit Division (480) 312-4017
7447 East Indian School Road
Scottsdale, Arizona 85251

Building Permit # _____ Date _____

Owner-Builder Declaration

Owner's _____ Name _____
Owner' _____ Address _____
Owner's _____ Phone _____
Job _____ Address _____
Subdivision _____
Book/Map/Parcel _____--_____
Lot Number _____
Commercial _____ or Residential _____
Scottsdale Privilege Tax Number _____

The following is provided so that I, acting in the capacity of an Owner-Builder may attest my having made an application to construct a structure at the above named address. I also make the following declaration at this time regarding my intention as an Owner-Builder as it relates to the City of Scottsdale Privilege Tax.

I am an Owner-Builder who declares the following: I am improving the above named property for sale; and I will assume liability for tax on such construction activity; and I have a valid Scottsdale Privilege Tax license number. I will provide each contractor with a copy of this declaration.

I am an Owner-Builder who declares the following: At this time, I do not intend on selling the improved real property described above. I understand that each Construction Contractor who works on the improvements related to the property above will be liable for Privilege Tax. I will provide a list (Form C-2) to the City showing all Construction Contractors, the amounts paid to each contractor, the address of each contractor and the City of Scottsdale Privilege Tax number for each contractor. I understand that such a listing is required prior to the completion of the project and that final inspections may be delayed if the requested information is not provided. I understand that the sale of the improved property may result in additional tax which will become my responsibility. Any taxes assessed against me may be offset with a credit for any tax amounts previously reported to the City by the listed construction contractors.

Applicant Signature: _____ Date: _____

Print Name: _____

This form to be completed when applying for a permit; complete and return to Tax Audit, Suite 230.

FORM C - 2
City of Scottsdale

Development Services Division (480) 312-2500
Tax Audit Division (480) 312-4017
One Civic Center
7447 E. Indian School Road
Scottsdale, AZ 85251

Building Permit #	
Owner's Name	
Owner's Address	
Phone	
Job Address	
Book/Map/Parcel	
Lot Number	
Legal Description	

Owner/Builder's List of Contractors					
Contractor	Name	Address	Total Paid	Scottsdale Privilege Tax Number	State Contractor License No.
General Contractor					
Structural (B-2)					
Electrical (C-11)					
Plumbing (C-37)					
Mechanical (C-39)					
Grading/Excavation					
Cement/Concrete					
Sewer Drains					
Framing					
Roofing					
Sheet Metal					
Fireplace					
Insulation					
Lathing					
Plastering					
Glass					
Painting					
Cabinets					
Linoleum					
Flooring Wood					
Carpeting/Tile					
Doors/Garage					
Masonry Blk Walls					
Interior Decor					
Sprinklers					
Landscaping					
Paving					

**This form must be completed and submitted to Tax Audit,
Suite 230, five days prior to final inspection**



Owner-Builder Written Declaration

I am an owner-builder who declares the following to subcontractors working on the project described below: I am improving the property named below for sale; and I will be liable for the city or town privilege tax for such contracting activity; and I have a valid city or town privilege license number as shown below. This declaration is made in accordance with Model City Tax Code section 415(c)(2).

A separate "Owner-Builder Written Declaration" is needed for each project.

OWNER-BUILDER INFORMATION

- A. Owner Name: _____
- B. Owner Address: _____
(Full address of owner)
- C. Owner Phone: (_____) _____
- D. City or Town of _____ Privilege License # _____
(Required)

PROJECT INFORMATION

- E. Job Address: _____
(Full address of job)
- F. Subdivision Name: _____
- G. Lot Number: _____ Book/Map/Parcel: _____ - _____ - _____
- H. Check the Project Type: _____ Residential structure: _____ Lot without structure
_____ Other – describe: _____

SUBCONTRACTOR INFORMATION

- I. Issued to: _____
(Name of subcontractor)
- _____

(Full address of subcontractor, including phone no.)

I certify that the above information is correct and that I understand that making a false or fraudulent claim to aid or abet another to obtain a city or town privilege tax exemption is a Class One Misdemeanor [pursuant to Model City Tax Code section 580].

Owner-Builder Signature: _____ Print Name: _____

Title: _____
Date: _____

**City of Scottsdale
Speculative Builder Resale Certificate**

In order to comply with the requirements of Section 416(b)(4) of the Scottsdale Revised Code which provides an exclusion for the sale of partially improved residential* real property from one speculative builder to another speculative builder; the seller should have the purchaser complete the following information:

Property Address: _____
Subdivision: _____
Lot Number(s): _____
Legal Description: _____ - _____ - _____

I am a speculative builder who is purchasing the partially improved real property described above and hereby assume liability for and will pay all taxes that would otherwise be due the City at the time of this sale. I further declare that I am licensed with the City of Scottsdale to conduct business as a speculative builder and have included my account number below.

Purchaser's Business Name: _____
Purchaser's Address: _____
Purchaser's City of Scottsdale Privilege Tax Number: _____

Seller's Business Name: _____
Seller's City of Scottsdale Privilege Tax Number: _____

I certify that the above information is correct and that I understand that making a false or fraudulent claim to obtain a tax exemption is a Class One Misdemeanor under Scottsdale Revised Code Section 580.

Purchaser _____

Title _____ Date _____

The seller should retain this copy and submit a copy of this declaration with the tax return where he claims the exclusion.

* The speculative builder resale provisions apply only to residential real property. If the transaction involves commercial property this provision does not apply.

FACTORING PRIVILEGE TAX FOR CONTRACTING ACTIVITY WITH LAND INVOLVED

The following formulas can be used for factoring Privilege Tax on contracting and speculative building activity for jobs in Scottsdale. These factors are derived from the combined state, county and city tax rate of 7.7%. Two factors are required, one for state and county which allow a land deduction; and the other for Scottsdale which does not allow a land deduction.

To determine the combined tax due for all Scottsdale & Arizona Department of Revenue:

- 1) Multiply the gross receipts by the rate .04766440
- 2) Multiply the land value by the rate .03899815
- 3) Subtract the result of step 2 from step 1.

The result obtained from step 3 represents the combined tax due for the city, county and state, and provides the deduction for factored Privilege Tax (Deduction Code E). The following steps are needed to properly complete the tax return.

- 4) Subtract the amount derived from step 3 from the gross receipts.
- 5) Multiply the result in step 4 by .35. The result is the 35% standard deduction for the City. (Deduction Code N)
- 6) To compute taxable income, subtract the amounts derived from step 3 and step 5 from the gross receipts.
- 7) Multiply the result of step 6 by .014 to determine the amount of Scottsdale City tax due.

Note: For improved lot sales replace steps 1 through 3 with “Multiply the gross receipts by the rate .00901794.” This will provide the amount of City tax due. Since improved lot sales are only taxed by the City, the state and county taxes do not factor into the calculations.

If you use a personal computer and have access to a spreadsheet program you may obtain templates from our office, which greatly simplify the factoring process.

Example:

Gross Selling Price (Gross Receipts)	100,000
Land Value	30,500
Step 1	100,000 x .04766440 = 4,766.44
Step 2	30,500 x .03899815 = 1,189.44
Step 3	4,766.44 - 1,189.44 = 3,577.00 (Deduction Code E)
Step 4	100,000 - 3,577.00 = 96,423.00
Step 5	96,423.00 x .35 =
33,748.05	(Deduction Code N) 35%
Step 6	100,000 - 3,577.00 - 33,748.05 = 62,674.95
Step 7	62,674.95 x .014 = 877.45

On your Tax Returns:

	<u>City</u>	<u>State</u>
Gross Receipts	100,000.00	100,000.00
Deductions:		
Land	N/A	30,500.00
City/State Tax (E)	3,577.00	3,577.00
35% Standard (N)	<u>33,748.05</u>	<u>23,073.05*</u>
Total Deductions	37,325.05	57,150.05
Net Taxable (Gross - Deductions)	62,674.95	42,849.95
Tax Rate	<u>.014</u>	<u>.063</u>
Tax (Net Taxable x Tax Rate)	877.45	2,699.55
	+ 3,577.00 = 3,577.00 Total Tax	

* When calculating the State tax, the 35% standard deduction is computed after subtracting the land value and the factored tax
 $100,000 - 30,500 - 3,577.00 = 65,923.00 \times .35 = 23,073.05$

City of Scottsdale
Contracting Model
Computation of Tax Due
No Land Involved

Scottsdale GROSS RECEIPTS (GR)	\$100,000.00	
MULTIPLY GROSS BY FACTOR	0.04766440	0.03466502 - state 0.00433313 - county 0.00866625 - city
TOTAL TAX (GR X .04766440)	4,766.44	
NET RECEIPTS (GR - TAX)	95,233.56	
PROOF:		
NET RECEIPTS (NR)	95,233.56	
	0.35	
		Total Deductions
STANDARD 35% DEDUCTION (NR x 35 %)	33,331.75	\$38,098.19
TAXABLE INCOME (NR - 35 %)	61,901.81	
CITY TAX @ 1.4%		866.63
STATE TAX @ 6.3%		3,899.81
TOTAL TAX		4,766.44

CITY OF SCOTTSDALE

CUSTOMER SERVICE DIVISION Office Location and Mailing Address

7447 E. Indian School Road, Suite 110
Scottsdale, Arizona 85251
Or
9379 E. San Salvador, Suite 100
Scottsdale, AZ 85258

CUSTOMER SERVICE INFORMATION

Tax Permit Registration
General Information
Filing Tax Returns
(480) 312-2400

CITY OF SCOTTSDALE ONE-STOP-SHOP (480) 312-2500

CITY OF SCOTTSDALE INSPECTION SERVICES DIVISION (480) 312-5750

DELINQUENCY INFORMATION (480) 312-2705

AUDIT INFORMATION Calculation of Tax Interpretation of Law Determination of Deduction (480) 312-7026

A copy of the complete transaction Privilege Tax ordinance is available for \$7.00. It is also available on-line at www.scottsdaleaz.gov/taxes.